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Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 200554

Re: CC Docket 94-129
Ex Parte Presentation

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dear Ms. Salas:

On November 12, 1998 Sylvia Lesse and David Cosson met with Kevin J. Martin, Legal Advisor to Commissioner Furchtgott-Roth to discuss the proposed slamming rules under consideration in CC Docket 94-129. This firm represents independent telephone companies ("independents") which have a practice of verifying requests from interexchange carriers to make changes to the assignment of a subscriber's presubscribed interexchange carrier (PIC). The following summarizes the position statements made on behalf of the independents.

These independents maintain that their verification practice protects consumers from the pervasive slamming which exists in the marketplace, prevents substantial harm to the business reputation of the independents, and is implemented in a manner which is competitively neutral and does not cause undue delay. Many of the independents find that 40-50% of the subscribers contacted say they do not want their PIC changed. The independents therefore request that the Commission adopt rules which specifically permit them to continue this practice. A copy of the document distributed with the rule proposals is attached.

The independents recognize that the Commission may adopt appropriate conditions for verification to ensure that it is competitively neutral and does not cause undue delay. While some of the independents also provide long distance service, many do not. In either case, they scrupulously avoid any discussion with the customer beyond the yes or no question of whether or not the customer authorizes the change.

To the extent that there exists a tension between the goals of consumer protection and IXC competition, the independents believe the Commission should follow the suggestion of Senator McCain in his October 30, 1998 letter to Chairman Kennard in which he said: "These rules should make sure that consumers' rights are given precedence over

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the narrow competitive interests of those companies whose unethical or careless business practices result in slamming."

For some of the independents, a "PIC freeze" might be satisfactory, but others believe that, as a practical matter, consumers will not focus on the issue until they have been slammed. It was noted that the Commission has previously encouraged telephone companies to "take additional steps that might help reduce slamming in their service area."

If there are any questions regarding this matter, please contact me at the number listed above.

Sincerely,



David Cosson

cc: Kevin J. Martin

PIC Change Verification by Rural LECs

1. Several LECs have instituted a PIC change verification process. This process is performed in a prompt and competitively neutral manner and has minimized the volume of subscriber complaints regarding unauthorized PIC changes ("slamming").
2. These slamming complaints adversely impact the excellent relations that LECs have with their subscribers and require a substantial amount of time and resources to resolve.
3. Verification protects consumers from unauthorized PIC changes which occur in spite of a submitting carrier's purported compliance with the existing FCC Rules.
4. Verification is more effective and efficient than having to change back subscriber's PICs, refund the PIC change charge, and bill and collect the unauthorized PIC charge from the IXC.
5. The proposed FCC Rules should be revised to include the following language:

§ 64.1160 Changes in Subscriber Carrier Selection

(a) Prohibition. No telecommunications carrier shall.... Nothing in this section shall preclude any State commission from enforcing these procedures with respect to intrastate services or preclude an executing carrier from verifying the subscriber's authorization for the change request in a prompt and competitively neutral manner.

....

(2) Where the submitting carrier has complied with § 64.1160(a) but the executing carrier executes the change inconsistent with the subscriber carrier change selection, the executing carrier will be solely liable for violating § 64.1160(a); provided that an executing carrier is not liable and need not execute the change where it determines, in accordance with § 64.1160(a) that the change was not authorized by the subscriber.